IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

WP(C).No. 30164 of 2007(N)

PETITIONER:

HOTEL DOUBLOON, KALLAMBALAM
REPRESENTED BY MANAGING PARTNER,
R.MANILAL.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:
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1. ASSISTANT COMMISSIONER, SPECIAL CIRCLE,
THIRUVANANTHAPURAM.

2. DEPUTY COMMISSIONER (APPEAL),
THIRUVANANTHAPURAM.

3. STATE OF KERALA REPRESENTED BY
SECRETARY, TAX DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/10/2007, ALONG WITH WP(c) 30287/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) NOs. 30164 & 30287 OF 2007

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Dated this the 11th day of October, 2007

J U D G M E N T

Ext.P3 in these cases are the orders passed by the 2nd respondent on the stay applications filed by the petitioners in the appeals filed for the assessment years 2003-04 and 2004-05. The petitioner is an F.L.3 licencee and the disputed tax for the aforesaid assessment years are Rs.1,36,48,140/- and Rs.1,57,56,343/- respectively. By the impugned order, the 2nd respondent appellate authority has ordered the petitioner to pay 50% of the disputed tax and furnish security for the balance to the satisfaction of the authority. It is aggrieved by the said order, these writ petitions have been filed by the assesee. It is the contention of the assesee-petitioner that the entire stock of liquor was being purchased from the Kerala State Beverages Corporation and that in the previous orders the tax assessed was much less and there is absolutely no basis for the assessments in question.

2. However, these are all matters for the appellate authority to consider and I am not called upon to enter into the same.

3. All the same, I think the condition imposed for stay is too onerous in the facts of these cases and requires modification. Taking into account the submissions made by the learned Government pleader, I direct that the condition in Ext.P3 order requiring appellant to pay 50% of the disputed tax will stand modified by directing them to deposit 25% of the disputed tax and furnishing bank guarantee for the balance 25%. As ordered by the appellate authority, for the remaining 50%, the petitioners shall furnish security to the satisfaction of the assessing authority.

With these modifications, writ petitions will stand disposed of.

ANTONY DOMINIC, JUDGE.

Rp